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MILITARY LAWS

OF THE

STATE OF WASHINGTON

Compiled by
MAJOR WALTER B. BEALS
Judge Advocate General
National Guard of Washington

by direction of
BRIGADIER GENERAL MAURICE THOMPSON
The Adjutant General

1915

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HEADQUARTERS NATIONAL GUARD OF WASHINGTON.

Office of The Adjutant General.

SEATTLE, April 15, 1915.

By direction of ERNEST LISTER, Governor and Commander-in-Chief, the sections of the Constitution of the State of Washington having reference to the military department of this state, together with such portions of the statutes of the State of Washington now in force and known as the "Military Code" are published for the information and guidance of all concerned.

MAURICE THOMPSON,
Brigadier General, N. G. W.,
The Adjutant General.

CONSTITUTION OF THE STATE OF WASHINGTON.

ARTICLE I.

SECTION 24. *Right to Bear Arms.*

The right of the individual citizen to bear arms in defense of himself or the state shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men.

ARTICLE II.

SECTION 14. *Non-Salaried Officers May Serve in Legislature.*

No person being a member of congress, or holding any civil or military office under the United States or any other power, shall be eligible to be a member of the legislature; and if any person after his election as a member of the legislature shall be elected to congress or be appointed to any other office, civil or military, under the government of the United States, or any other power, his acceptance thereof shall vacate his seat: *Provided*, That officers in the militia of the state who receive no annual salary, local officers, and postmasters, whose compensation does not exceed three hundred dollars per annum, shall not be ineligible.

ARTICLE III.

SECTION 1. *Executive Department.*

The executive department shall consist of a governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, and a commissioner of public lands, who shall be severally chosen by the qualified electors of the state at the same time and place of voting as for the members of the legislature.

SEC. 5. *General Duties of Governor.*

The governor may require information in writing from the officers of the state upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 8. *Commander-in-Chief.*

He shall be commander-in-chief of the military in the state, except when they shall be called into the service of the United States.

ARTICLE X.

SECTION 1. *Who Liable to Military Duty.*

All able-bodied male citizens of this state between the ages of eighteen and forty-five years, except such as are exempt by laws of the United States or by the laws of this state, shall be liable to military duty.

SEC. 2. *Organization—Discipline—Officers—Power to Call Out.*

The legislature shall provide by law for organizing and disciplining the militia in such manner as it may deem expedient, not incompatible with the constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the governor. The governor shall have power to call forth the militia to execute the laws of the state to suppress insurrections and repel invasions.

SEC. 3. *Soldiers' Home.*

The legislature shall provide by law for the maintenance of a soldiers' home for honorably discharged Union soldiers, sailors, marines and members of the state militia disabled while in the line of duty, and who are *bona fide* citizens of the state.

SEC. 4. *Public Arms.*

The legislature shall provide by law for the protection and safe keeping of the public arms.

SEC. 5. *Privileged From Arrest.*

The militia shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during the attendance at musters and elections of officers, and in going to any returning from the same.

SEC. 6. *Exemption From Military Duty.*

No person or persons having conscientious scruples against bearing arms shall be compelled to do militia duty in times of peace: *Provided.* Such person or persons shall pay an equivalent for such exemption.

MILITARY CODE.

(For convenient reference, the sections of the Military Code are arbitrarily numbered from 1 to 109, inclusive. The numerals in parenthesis following the sections refer to Remington and Ballinger's Code, edition of 1910, and the session laws of the State of Washington, where the respective sections may be found.)

SECTION 1. This act (referring to chapter 134, Session Laws of 1909) together with subsequent acts amendatory hereof shall be known as the Military Code of the State of Washington. (7168, L. '09, p. 435.)

SEC. 2. *Persons Subject to Military Duty.*

Every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention to become a citizen, resident within this state, who is more than eighteen and less than forty-five years of age, shall be subject to military duty, unless specifically exempted therefrom by the laws of the United States or of this state. (7169, L. '09, p. 435.)

SEC. 3. *Persons Exempt From Military Duty.*

The following persons are exempt from military duty in this state:

1. Civil and military officers of the United States.
2. State and county civil officers.
3. Members of any regularly organized fire or police department, in any city or town.
4. All persons exempt from military duty by the laws of the United States.
5. All idiots, lunatics and persons under sentence for having committed an infamous crime: *Provided*, That no person who shall have voluntarily enlisted in the National Guard of Washington shall be entitled to exemption under this section during the time of his enlistment. (7170, L. '09, p. 435.)

SEC. 4. *Commander-in-Chief May Order Enrollment.*

Whenever the Commander-in-Chief shall deem it necessary, in event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, he may order an enrollment by counties of all persons subject to military duty, designating the county assessor or some other person for each county to act as county enrolling officer. Each county enrolling officer may appoint such assistant or assistants as may be authorized by the Commander-in-Chief. In each county the enrollment shall include every sane able-bodied male inhabitant not under sentence for an infamous crime, who is more than eighteen and less than forty-five years of age. The enrollment shall be made in triplicate and shall state the name, residence, age, occupation and previous or existing military or naval service of each person enrolled. When complete the rolls

shall be verified under oath by the enrolling officer, who shall immediately thereupon file one copy with the Adjutant General of the state and another with the county auditor, retaining the third copy for himself. (7171, L. '09, p. 435.)

SEC. 5. *Notice of Enrollment.*

Persons making an enrollment under this act shall, at the time of making same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to him personally or by leaving it with some person of suitable age and discretion at his place of business or residence, or by mailing such notice to him at his last known place of residence, and shall make a return under oath of such service to accompany the copy of the enrollment filed with the Adjutant General. Such return shall be *prima facie* evidence of the facts therein shown. (7172, L. '09, p. 436.)

SEC. 6. *Exemptions.*

Whenever an enrollment shall have been ordered under this act, the commanding officers of existing organizations of militia, and the chiefs of all police and fire departments shall make and deliver to the enrolling officer of the county in which such organization and departments are stationed, verified lists in triplicate of the members of their respective commands and departments, and the enrolling officer shall mark "Exempt" opposite the names of all persons so listed, attaching one copy of each such list to each copy of the enrollment. The enrolling officers shall also mark "Exempt" opposite the names of all federal, state and county officers. All other persons claiming exemption must within fifteen days after service upon them of the notice of enrollment make a written verified claim in duplicate of such exemption and file the same in the office of the county auditor, who shall within five days thereafter forward one copy thereof with remarks and recommendations to the Adjutant General. Upon the expiration of the time within which any claim of exemption may be filed and received by the Adjutant General, the latter shall notify the county auditor of his decision in each case where exemption has been claimed, and the county auditor shall write upon the roll opposite the name of each person whose claim of exemption has been allowed by the Adjutant General, the word "Exempt." All those on the roll not marked "Exempt" shall be subject to military duty. (7173, L. '09, p. 436.)

SEC. 7. *Penalties for Dereliction or False Certificate.*

If any officer or person, who becomes charged under this act with any duty relating to an enrollment of persons subject to military duty, refuses or neglects to perform the same within the time and substantially in the manner required by law, or if he shall knowingly make any false certificate, or if, when acting as county or assistant enrolling officer, he shall knowingly or wilfully omit from the roll any person required by this act to be enrolled he shall thereby forfeit not

less than one hundred nor more than five hundred dollars, to be sued for in the name of the State of Washington by the prosecuting attorney of the county in which such offense shall occur, the amount of the penalty to be determined by the court, and when recovered to be paid into the military fund of the state. (7174, L. '09, p. 437.)

SEC. 8. *Compensation of Enrolling Officer.*

Each county enrolling officer shall be allowed the sum of five cents per name enrolled and served with notice of enrollment by him or his assistants, to be audited and paid as other military bills out of any monies in the military fund not otherwise appropriated, and from such allowance he must pay his assistant or assistants. (7175, L. '09, p. 437.)

SEC. 9. *Examination of Assessment Rolls and Poll Lists.*

All civil officers in each county, city and town shall allow persons authorized under this act to make enrollments, at all proper times, to examine their records and take copies thereof or information therefrom. It shall be the duty of every person, under the penalties provided in section seven of this act, upon application of any person legally authorized to make an enrollment, truthfully to state all of the facts within his knowledge concerning any individual of whom the enroller shall make inquiry. In event of a violation of this section the enroller shall report the facts to the prosecuting attorney, who shall at once proceed to enforce the penalty. (7176, L. '09, p. 438.)

SEC. 10. *Definition and Classification of the Militia.*

All persons subject to military duty under this act shall collectively comprise the militia of this state, and they shall be divided into two classes:

1. The organized militia, and
2. The militia reserve.

The organized militia shall comprise all of the officers and men of the regularly enlisted, commissioned, organized and uniformed active military forces of the state, and they shall be known collectively as the National Guard of Washington. The militia reserve shall comprise all who are subject to military duty and not within the organized militia. (7177, L. '09, p. 438, cf. sec. 100 *et seq.*)

SEC. 11. *Organization of National Guard.*

The system of organization, armament, discipline and exercise of the National Guard of Washington shall be prescribed from time to time in regulations to be promulgated by the Commander-in-Chief, but the same shall at all times conform as nearly as practicable to that of corresponding forces in the army of the United States, subject at all times to the laws and regulations of the United States governing the organized militia, and, in time of peace, to such general exceptions as may be authorized by the Secretary of War. (7178, L. '09, p. 438.)

SEC. 12. *Composition and Strength of the National Guard.*

The National Guard of Washington shall include at all times an adjutant general's department, an infantry branch of not less than twelve companies, a coast artillery branch of not less than four companies and a cavalry branch of not less than one troop. The commander-in-chief may authorize and cause to be organized within the National Guard of Washington such additional departments, corps, branches, arms and organizations as he shall deem necessary, but in times of peace the total strength of the land forces shall not be in excess of four thousand officers and men. The strength and composition of departments excepting the adjutant general's department, corps, branches, arms and tactical and administrative subdivisions shall be prescribed from time to time in orders or regulations by the commander-in-chief, in the cases of tactical and administrative subdivisions at all times conforming as nearly as practicable to the laws and regulations of the United States pertaining to the militia. Subject to the limitations imposed by law the commander-in-chief shall have power at will to alter, divide, consolidate, disband, muster out or reorganize departments, excepting the adjutant general's department, corps, branches, arms and tactical or administrative subdivisions either now existing or hereafter created. Nothing in this section shall be construed as affecting the present status of now existing organizations. (L. 1913, p. 224.)

SEC. 13. *Commander-in-Chief.*

The governor of the state, by virtue of his office, shall be the commander of its military forces not in the service of the United States. (7180, L. '09, p. 439.)

SEC. 14. *Personal Staff of the Commander-in-Chief.*

Whenever the Commander-in-Chief shall desire the attendance of a personal staff upon any ceremonial occasion, he shall detail therefor such officers as he may choose from the active list of the National Guard of Washington, resident in or nearest to the place where such ceremonies are to be held, or such number of members of any veteran organization that he may choose, and the officers detailed if from the active list shall attend in uniform at the time and place designated and shall constitute the personal staff of the Commander-in-Chief for that occasion, reverting upon completion of such duty to their regular assignments. (7181, L. '09, p. 439.)

SEC. 15. *When Commander-in-Chief May Order Out National Guard.*

In event of war, insurrection, rebellion, invasion, tumult, riot, mob or body of men acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or the United States, or in case of imminent danger of the occurrence of any of said events, or in event of public disaster resulting from flood, conflagration, tempest or cataclysm, the governor shall have power to order the National

Guard of Washington or any part thereof into the active service of the state, and to cause them to perform such duty as he shall deem proper. The governor shall also have power to order out the National Guard or any part thereof to preserve order and keep people within bounds at any large public assemblage; provided that such action shall be taken only upon written request of the mayor of the city and the sheriff of the county within which said assemblage is to occur. (L. 1913, p. 225.)

SEC. 16. *When Local Commanders May Order Out National Guard.*

In event of insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, occurring in the vicinity of the station of any organization or organizations of the National Guard of Washington, whenever the exigencies of the situation are such as to render it impracticable first to communicate with the Commander-in-Chief, the senior commanding officer of that station, upon request in writing signed by a superior court judge, sheriff or mayor, stating the facts and the nature of the service desired, may order out the organization or organizations at that station, or such portion thereof as he shall deem necessary, and cause them to undertake the performance of such duty as the circumstances shall require, and such commanding officer shall immediately report what he has done and all of the circumstances of the case to the Commander-in-Chief. (7183, L. '09, p. 440.)

SEC. 17. *When Commander-in-Chief May Order Out Militia Reserve.*

In event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, if the Commander-in-Chief shall have ordered into active service all of the available forces of the National Guard of Washington and shall consider them insufficient in number to properly accomplish the purpose, he may then, in addition, order out the militia reserve or such portion thereof as may be necessary, and cause them to perform such military duty as the circumstances may require. (7184, L. '09, p. 440.)

SEC. 18. *When the Militia Is Called Into the Federal Service.*

Whenever the President of the United States shall issue his orders to the proper officer or officers of the National Guard of Washington, through the Commander-in-Chief, for the mobilization of any part or all of the National Guard of Washington for federal service, such organizations of the National Guard of Washington as may be sufficient to comply with the orders of the President of the United States shall be mobilized as required by said orders. Immediately upon the mobilization of said forces, and as soon as they shall be in the service of the United States it shall be the duty of the Governor to organize and muster into the service of the State of Washington the same number of companies, battalions or regiments that have been ordered into the

federal service. The organizations so mustered into the service of the State of Washington shall be known as the National Guard Reserve and whenever one regiment or more of the National Guard of Washington shall have been mobilized for the federal service at least one battalion of the National Guard of Washington not in the service of the United States or at least one battalion of the National Guard Reserve shall be designated as a Depot Battalion and shall be used for the purpose of recruiting and training men for service with those organizations theretofore ordered into the federal service. This Depot Battalion shall be stationed at such place as the Commander-in-Chief may designate and the officers assigned to duty therewith shall be selected for their fitness to perform the duties required for such an organization. Whenever any part or parts of the National Guard Reserve shall be mustered into the service of the United States, an equal number of companies, battalions or regiments shall forthwith be organized and mustered into the service of the State of Washington to fill the vacancy in the National Guard Reserve created by the muster into the federal service of such organizations. Whenever any portion of the National Guard of this state shall be relieved from duty in the service of the United States, such organizations shall resume their former designations as a part of the National Guard of this state the same as if they had not been ordered into the federal service and the National Guard Reserve organized to take their places shall be mustered out of the service of the state. (7185, L. '09, p. 441.)

SEC. 19. *Procedure in Calling Out Militia Reserve.*

Whenever it shall be necessary to call out any portion of the militia reserve for the purpose of the United States, the number required shall be apportioned between all of the counties *pro rata* according to population, but for the active service of this state, the entire number may be drawn from any one or more of the counties, *pro rata* or otherwise, as the Commander-in-Chief shall deem most expedient. For each county the sheriff thereof shall be *ex-officio* drafting officer, and whenever the Commander-in-Chief shall have called upon any sheriff for a certain number of the militia reserve within his county, such sheriff shall immediately proceed to call for and accept as volunteers, or draft by lot, as many of the militia reserve in his county as shall have been required by the Commander-in-Chief. The persons so accepted as volunteers and drafted shall be summoned by the sheriff in the manner prescribed by law for the summoning of witnesses, the time and place of the rendezvous being stated in the summons, and the sheriff shall promptly provide the Adjutant General with a full verified return showing the names of those so summoned and the manner of service in each instance. (7186, L. '09, p. 442.)

SEC. 20. *Penalty for Sheriff Failing to Perform Duty as Drafting Officer.*

Whenever any sheriff shall refuse or neglect well and timely to perform any duty with which he shall have become charged under this

act, he shall thereby forfeit his office, and upon prosecution and conviction of such refusal or neglect he shall be fined not less than five hundred nor more than one thousand dollars. The Commander-in-Chief shall have the power at any time summarily to relieve any sheriff from duty as drafting officer, and designate some other officer or person to act in that capacity. (7187, L. '09, p. 442.)

SEC. 21. *Penalty for Failure to Report for Duty.*

Every member of the National Guard of Washington who shall have been ordered out for either state or federal active service and who shall fail to report for duty to his commanding officer within twenty-four hours after the time designated in orders, and every member of the Militia Reserve who shall have been regularly summoned by a drafting officer and who shall fail to appear and make his presence known to the mustering officer at the place and within twenty-four hours after the time designated in the summons shall be taken to be a deserter and dealt with as prescribed in the Articles of War of the United States, unless he shall produce a sworn certificate from a licensed physician of good standing that he was physically unable to appear at the time and place designated, or unless he shall have furnished a substitute as in this act elsewhere provided. (7188, L. '09, p. 443.)

SEC. 22. *Penalty for Physician Making False Certificate.*

Whenever any physician shall knowingly make and deliver a false certificate of physical disability concerning any member of the militia who shall have been ordered out or summoned for active service, such physician shall thereby forfeit forever his license and right to practice in this state and shall be deemed guilty of perjury. (7189, L. '09, p. 443.)

SEC. 23. *Substitutes.*

Any member of the militia reserve who shall have been drafted for either state or federal active service shall be relieved therefrom if he shall furnish and have at the time and place of the rendezvous any person fit for military duty who has not prior thereto been drafted or accepted as a volunteer for that service and who shall thereupon willingly volunteer and be accepted and mustered into the service as his substitute, but the person furnishing such substitute shall continue a member of the militia reserve and shall be subject to any subsequent draft unless he again provide a substitute. (7190, L. '09, p. 443.)

SEC. 24. *Organization of Militia Reserve. When Called Out.*

Any portion of the Milita Reserve which shall have been called out under the provisions of this act shall be immediately mustered into the service of the state, either temporarily until they can be mustered into the service of the United States if called for that purpose, or, if for state service, for such period not exceeding one year as the Commander-in-Chief shall direct, and they shall then either be assigned

to organizations of the militia of this state already existing or formed into new organizations conforming as nearly as practicable to the laws and regulations then in force for the regular army of the United States, as the Commander-in-Chief shall direct. Such new organizations, if for state service, may be of any branch or branches of the service required by the nature of the duty to be performed, and, if for federal service, they shall be of the branch or branches specified in the President's call. The necessary officers therefor shall be appointed and commissioned by the Commander-in-Chief, as in the manner provided for officers in the National Guard. While in the service of this state all such organizations shall be armed, equipped, uniformed, paid, governed and disciplined according to the laws and regulations then in force for the National Guard of Washington. (7191, L. '09, p. 444.)

SEC. 25. *Suits Against Officers, or Enlisted Men.*

When any suit or proceeding shall be commenced in any court by any person against any military officer of the state for any act done by such officer in his official capacity in the discharge of any duty under this act or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting or instituting such suit or proceeding to file a cost bond running to the State of Washington of not less than $200, or such greater sum as may be fixed by the court on application therefor for the payment of costs that may be incurred by the defendant therein, and in case the plaintiff shall be non-suited or have the verdict or judgment rendered against him the defendant shall recover costs. The defendant in such action shall be defended by the Attorney General at the expense of the state, but private counsel may be employed by the defendant. No action shall lie against any officer or enlisted man for any acts done by him by virtue of any order which may hereafter be held invalid by any civil court. (7192, L. '09, p. 444.)

SEC. 26. *The Adjutant General's Department.*

The Adjutant General's department shall consist of the Adjutant General, one assistant adjutant general, who shall be designated as adjutant general, one chief clerk, one stenographer, one storekeeper and such other civilian employes as shall be authorized by the Commander-in-Chief. The salary of the Adjutant General shall be twenty-five hundred ($2,500.00) dollars per year. (L. 1913, p. 226.)

SEC. 27. *Adjutant General's Department. Duties of.*

The Adjutant General shall be *ex-officio* chief of staff, and in the absence of orders from the Commander-in-Chief to the contrary, he shall be the acting chief of all staffs, corps, and departments not otherwise provided for in this act. He shall hold office until his successor is detailed and qualified. He shall appoint the chief clerk, stenographer and storekeeper and may remove any of them in his discretion.

The expenses of the Adjutant General's department, necessary to the military service, shall be audited, allowed and paid as other military expenditures are audited, allowed and paid. Before entering upon his official duties, the Adjutant General must execute an official bond running to the State of Washington in the penal sum of twenty thousand ($20,000.00) dollars conditioned upon the faithful performance of his duties, said bond to be submitted to the Attorney General for approval, and when approved to be filed in the office of the Secretary of State, the cost of said bond to be paid from the military fund of the state. The Adjutant General shall obtain and pay for, from the military fund, a surety company bond or bonds running to the State of Washington covering all of the officers of the National Guard of Washington responsible to the state for money or military property, such bond or bonds to be approved and filed in the same manner as the Adjutant General's bond.

1. The Adjutant General shall keep rosters of all active and retired officers of the militia of the state, and keep in his office all records and papers required to be kept and filed therein, and shall submit to the Commander-in-Chief during October of each even numbered year a printed biennial report of the operations and condition of the National Guard of Washington.

1½. On the first day of January, of each year, he shall make a statement of the condition of the military fund, showing the amount thereof and setting forth in detail all receipts from whatsoever source and all expenditures of whatsoever nature and the unexpended balance thereof. A copy of said statement shall be furnished to each commissioned officer of the active list.

2. He shall cause the military law, the regulations of the National Guard and the articles of war of the United States, and such other military publications as may be necessary for the military service to be printed, indexed and bound at the expense of the state and distributed to the commissioned officers of the National Guard.

3. He shall keep and preserve the books, arms, accoutrements, ammunition and other military property belonging to the state, not properly issued.

4. He shall keep just and true accounts of all monies received and disbursed by him.

5. He shall attest all commissions issued to military officers of this state.

6. He shall make out and transmit all militia reports, returns and communications prescribed by acts of congress or by direction of the secretary of war.

7. He shall have a seal, and all copies, orders, records and papers in his office, duly certified and authenticated under said seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the Adjutant General shall be the seal

of his office and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with said seal.

8. He shall make such regulations pertaining to the preparation of reports and returns and to the care and preservation of property, in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

9. He shall attend to the care, preservation, safekeeping and repairing of the arms, ordnance, accoutrements, equipment and all other military property belonging to the state, or issued to the state by the government of the United States for military purposes, and keep accurate accounts thereof. All military property of the state, which after proper inspection, shall be found unsuitable for use of the state shall be disposed of in such manner as the Commander-in-Chief shall direct and the proceeds thereof paid into the military fund of the state.

10. He shall issue such military property as the necessity of the service requires and make purchases for that purpose. No military property shall be issued or loaned except upon an emergency to persons or organizations other than those belonging to the National Guard, except to such portions of the reserve militia as may be called out by the Governor.

11. He shall keep on file in his office the reports and returns of troops and heads of military departments, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

12. He shall keep all records of Washington volunteers commissioned or enlisted for the war of the rebellion, Indian wars, Spanish-American war, and all other wars or insurrections, and of individual claims of citizens of Washington for service rendered in these wars or insurrections.

13. He shall establish and maintain as part of his office a bureau of records of the services of the Washington troops during said wars, and he shall be the custodian of all records, relics, trophies, colors and histories relating to such wars now in possession of, or which may be acquired by the State of Washington, and such records, relics, trophies, colors and histories shall be catalogued and arranged or filed for general reference or protection in the office of the Adjutant General.

14. The duties of the assistant adjutant general, chief clerk, stenographer and storekeeper shall be prescribed by the Adjutant General and in the absence or incapacity of the Adjutant General, the assistant adjutant general shall perform the duties prescribed for the Adjutant General. (L. 1913, pp. 226-229.)

Sec. 28. *Medical Corps.*

The medical corps and medical reserve corps of this state is hereby organized with such commissioned officers, non-commissioned officers and privates as shall be necessary from time to time to supply each regiment and separate battalion with its proper field complement

of medical attendants in conformity with the laws, and regulations, governing the organized militia and the army of the United States. The senior officer of the medical corps shall be *ex-officio* Surgeon General, and shall perform functions and duties in relation to the National Guard of Washington, similar, so far as practicable, to those performed by the Surgeon General of the United States Army. Whenever there shall be no commissioned officer of the medical corps resident within any city or locality in which troops of the National Guard of Washington are permanently stationed, the Comamnder-in-Chief shall designate some licensed and practicing physician of good standing resident therein as an officer of the medical reserve corps, who shall have during such designated period of duty the rank of a first lieutenant, to make such physical examinations as may be required in the service at that station under the provisions of the military code, and for each physical examination so made there shall be audited, allowed and paid from the military fund the sum of one dollar. (7196, L. '09, p. 448.)

Sec. 29. *Credit for Service in First Washington Volunteers.*

Whenever in this act service in the volunteer or regular army of the United States or the National Guard of this or any other state is named as a qualification for an original commission, service with the First Washington Volunteer Infantry until muster out of that organization shall be considered equal to three years' service in the National Guard of this state. (7197, L. '09, p. 449.)

Sec. 30. *Selection of Officers.*

All commissioned officers of the National Guard of Washington shall be appointed and commissioned by the Commander-in-Chief, and, except as otherwise provided in this act, they shall be chosen as follows: Whenever a vacancy shall occur in the office of the Adjutant General of the state, the Commander-in-Chief shall detail for that position from the active list of the National Guard of Washington some officer not below the rank of captain, who shall during the continuance of such detail hold the rank of brigadier-general. No person shall be eligible for detail as Adjutant General who shall have served as an officer less than three years in the aggregate in the National Guard of Washington or the regular army of the United States. The assistant adjutant general shall be an officer of the active list of the National Guard of Washington detailed for that purpose.

Vacancies created by detail of officers to the Adjutant General's department, or any other staff, corps or department, shall be promptly filled precisely as though created through resignation or promotion, but officers on such details shall not lose their places in lineal rank in the branches from which they shall have been detailed. Whenever a vacancy occurs in the organization from which an officer on detail with the Adjutant General's department, or any other staff, corps, or department, shall have been detailed, for which vacancy such officer would have been eligible in the absence of such detail, such officer shall, al-

though continuing on such detail, be promoted to the grade of such vacancy, or, if holding an increased rank and grade by virtue of such detail, shall be deemed to have received such promotion to take effect upon termination of such detail, with rank from the date of the occurrence of such vacancy.

Whenever an officer shall be relieved from duty with the Adjutant General's department, or any other staff, corps or department, he shall be reassigned to the organization from which he was detailed upon the occurrence of the first vacancy therein of his rank and grade.

Whenever a vacancy occurs in the captaincy or first lieutenancy of a company, the officer next in rank in such company shall be ordered before an examining board, and upon passing the required examination, shall be appointed, commissioned and assigned to fill such vacancy: *Provided*, That any officer of appropriate rank and grade originally on duty with such company and serving on detail with any staff, department or corps or on waiting orders may be relieved of duty with such staff, department or corps and assigned to duty with such company, or assigned to duty with such company from the list of waiting orders; and thereupon the senior officer in such company, if there be a vacancy, shall be ordered before an examining board and upon passing the required examination shall be appointed, commissioned and assigned to fill such vacancy.

Whenever a vacancy occurs in the office of second lieutenant of any company, the Commander-in-Chief, except as hereinbefore provided, shall order a competitive examination for which every enlisted man in such organization shall be eligible and the successful candidate recommended by the examining board shall be appointed, commissioned and assigned to fill such vacancy. Any non-commissioned staff officer shall be eligible to take a competitive examination for second lieutenancy in the company of which he was originally a member.

Whenever a vacancy shall occur among the field officers of a regiment, the senior officer of the next lower grade in the regiment shall, upon passing a proper examination, be appointed, commissioned and assigned to fill the same.

Vacancies in staff offices of the grade of second lieutenant shall be filled by assignment, or by examination, promotion and assignment of a non-commissioned staff officer, and any vacancy in a staff office of a grade higher than second lieutenant shall be filled either by assignment of an officer of the proper grade or by examination, promotion and assignment of an officer of the next lower grade, as the Commander-in-Chief shall direct.

No person shall be commissioned as an officer in the National Guard of Washington unless he is a citizen of the United States and of this state, twenty-one years of age or more.

Whenever a commissioned officer shall have been examined for promotion under this act and shall fail to be recommended for promotion

by the examining board, he shall be honorably discharged, and the vacancy so created shall be filled in the manner prescribed by law.

For the purpose of this act the word company or companies shall apply to and include the cavalry, infantry, coast artillery and signal corps. (L. 1913, p. 229.)

SEC. 31. *Examinations.*

No person shall be appointed and commissioned to an office in the National Guard of Washington until he shall have passed a satisfactory examination as to his mental, moral and physical fitness therefor. Such examination shall be taken before a board appointed by the Commander-in-Chief, consisting of four officers from the active list, one of whom shall be a medical officer, the latter to make the physical examinations only. So far as practicable the members of each examining board shall be selected from grades superior to that of the candidate. Such boards shall have the same power to compel the attendance of witnesses, administer oaths and take testimony, as is possessed by general courts-martial. In all cases where enlisted men or civilians are being examined for appointment to a commissioned office, such examination shall cover the following subjects:

1. English grammar and the ability to speak, read and write the English language with facility and correctness.
2. Arithmetic, and the ability to apply its rules to the solution of practical problems.
3. Geography of the United States and of this state.
4. History of the United States.
5. Constitution and military laws of the United States and of this state, and the rules and regulations governing the National Guard of Washington and the army of the United States.
6. Drill regulations and manual of guard duty of the United States army and firing regulations for small arms.
7. Personal intelligence, aptitude and probable efficiency as an officer of the National Guard.
8. Physical fitness.

Examinations of commissioned officers for promotion or to ascertain their fitness to hold their commissions shall deal more particularly with the military knowledge and ability of the officer examined, and shall be of a strictness proportionate to the office. If such person shall be adjudged unqualified for such office, the officer next in rank shall be appointed after passing a satisfactory examination. The Commander-in-Chief shall appoint such examining boards and may remove any member thereof. No person shall be eligible for appointment to a commissioned office in the National Guard for the period of one year after he shall have been reported adversely by an examining board. The scope of the examination for any officer to determine his fitness to hold his commission shall be set forth in the general order directing him to appear for such examination. (7199, L. '09, p. 452.)

SEC. 32. *Seniority of Officers.*

Upon the date this act becomes effective, or as soon thereafter as practicable, it shall be the duty of the Commander-in-Chief to assign to each commissioned officer of the active list of the National Guard of Washington a number, assigning to the senior officer of each grade number one and continuing lineally thereafter in such grade in order of seniority as of the date of commission in the grade held by each officer on the day this act becomes effective. Thereafter seniority in any given grade shall be determined by the greatest length of continuous service as an officer of the National Guard of Washington, said service to be calculated from the day this act becomes effective. If two or more officers of the same grade have equal length of continuous service as commissioned officers of the National Guard of Washington calculated from the date this act becomes effective, seniority between them shall be determined by length of service in that grade. The rank of retired officers, returned to the active list, shall be determined in the grade held by them by service as officers of the active list performed subsequent to the date this act becomes effective. The rank of any officer who shall receive his first commission in the National Guard of Washington after this act becomes effective, shall be determined in the grade to which appointed by length of service as an officer of the active list, performed subsequent to the date this act becomes effective. (7200, L. '09, p. 453.)

SEC. 33. *Examining Boards.*

The Commander-in-Chief may at any time appoint an examining board consisting of four officers, one of whom shall be a medical officer, the latter to make the physical examination only, and may order before said board any commissioned officer of the National Guard of Washington for examination to determine his fitness to hold his commission. Such board shall examine into the character, capacity, general fitness and military and physical qualifications of such commissioned officer. If the findings of such board be unfavorable to such officer, and be approved by the Commander-in-Chief, such officer shall be discharged from the service or retired. With the exception of the medical officer, the officers composing said board, shall if practicable, be senior in rank to the officer examined. (7201, L. '09, p. 454.)

SEC. 34. *Terms of Officers, Continuous.*

The terms of all officers, not otherwise provided for, shall be continuous: *Provided*, That whenever an officer shall reach the age of sixty-four years he shall be retired from active service and command and placed upon the roll of retired officers with the rank held by him at the date of such retirement. (7202, L. '09, p. 454.)

SEC. 35. *Acceptance of Commission.*

Every officer, duly commissioned, within ten days after his commission is tendered him, or within ten days after he shall be personally

notified that the same is held in readiness for him, shall take and subscribe the oath of office, and give bond, if bond is required. In case of neglect or refusal to take and subscribe such oath and give bond as required within the time mentioned, he shall be considered to have resigned such office and a new appointment shall be made by the Commander-in-Chief as provided by law. (7203, L. '09, p. 454.)

SEC. 36. *Oath.*

The oath of office for commissioned officers in the National Guard of Washington shall be as follows:

State of Washington }
County of..... } ss:

I, ..., do solemnly swear that I will support the constitution of the United States and the constitution and laws of the State of Washington, and bear true faith and allegiance to the same, and that I will yield a prompt obedience to all orders and instructions from my superior officers, and to all laws and regulations promulgated for the organization, government and discipline of the National Guard of Washington. So help me God.

.....

Subscribed and sworn to before me this.....day of ....., 19....

.....

.....

7204, L. '09, p. 455.) *Title of Officer.*

SEC. 37. *New Companies. How Admitted.*

New companies and organizations of the National Guard of Washington not in excess of the limits prescribed by law, may be organized and mustered in at such times and in such manner as the Commander-in-Chief shall direct. (L. 1913, p. 231.)

SEC. 38. *Dismissal and Discharge of Officers.*

The Commander-in-Chief may dismiss any commissioned officer of the National Guard of Washington for any of the following reasons:

1. Conviction of an infamous crime.

2. Removal of his actual residence to such distance from the station of his comamnd as to render it impracticable for him to perform the duties of his office.

3. Absence from his command for more than thirty days without proper leave.

4. Sentence of dismissal by court-martial, duly approved.

5. Incompetence or unfitness for military service as determined by the duly approved findings of an examining board appointed for that purpose.

And the Commander-in-Chief may discharge any commissioned officer of the National Guard for any of the following reasons:

1. Upon muster out of the organization to which such officer is then assigned.

2. Acceptance of resignation of such officer: *Provided*, That no officer shall be discharged or his resignation accepted while under arrest or against whom military charges have been preferred, or until he shall have turned over to his successor or satisfactorily accounted for all state and federal moneys, and military property for which he shall be accountable. (7206, L. '09, p. 457.)

SEC. 39. *Retirement of Officers.*

Commissioned officers of the National Guard of Washington shall be retired by order of the Commander-in-Chief with the grade and rank respectively held by them at the time of such retirement for the following reasons:

(1) Upon reaching the age of 64 years.

(2) Unfitness for military service by reason of permanent physical disability.

(3) Upon request after at least five years continuous service as officers in the National Guard of Washington.

Retired officers shall draw no pay or allowances except when on duty.

They shall be subject only to temporary detail by the Commander-in-Chief and while on duty shall receive the same pay and allowances as officers of the same rank on the active list. On all occasions of duty or ceremony retired officers shall take rank next below officers of the same grade on the active list. (7207, L. '09, p. 458.)

SEC. 40. *Enlistments.*

All enlistments and re-enlistments in the National Guard of Washington shall be for a term of three years, and at the expiration of his term of enlistment, any man if honorably discharged may be re-enlisted either immediately or at any time thereafter, and if re-enlisted within thirty days shall be given credit for continuous service: *Provided*, That in time of peace the proper authority, upon application therefor, shall grant a discharge to a re-enlisted man who has served at least one year of such re-enlistment. The qualifications for enlistment and re-enlistment shall correspond as nearly as possible to those fixed for similar service in the regular army. Before an applicant shall be enlisted or re-enlisted he shall be subject to the same physical examination by an officer of the medical corps, or an officer of the medical reserve corps, as is or may be prescribed for a similar enlistment in the army of the United States, and the certificate of such officer of the medical corps or of the medical reserve corps shall accompany his enlistment papers. Any enlisted man may at any time be ordered by his commanding officer to appear for physical examination, and if not physically qualified as required by this act, he shall be honorably discharged from the service. When organizations are consolidated or disbanded, any enlisted man

thereof discharged for such reason, who shall thereafter re-enter the service within thirty days, shall have allowed as part of his term of service, the time already served. Company commanders and such other officers as may be designated by the Commander-in-Chief shall act as recruiting officers. (7208, L. '09, p. 458.)

SEC. 41. *Transfers.*

Any enlisted man, upon his own application, with the approval of the commanding officers of the organizations from which and to which he is to be transferred, may be transferred from one organization to another in the National Guard. (7209, L. '09, p. 459.)

SEC. 42. *Appointment of Non-Commissioned Officers.*

Commanding officers of regiments, corps, or separate battalions not parts of regiments, and the Commander-in-Chief, in case of unattached organizations, shall appoint, and reduce the non-commissioned staff officers of their respective regiments, corps and battalions, and they shall also appoint and reduce the non-commissioned officers of the companies of their respective regiments, corps, battalions and unattached organizations thereof upon the recommendation of the company commanders. Non-commissioned staff officers, reduced to the ranks, shall be returned to the organizations from which they were appointed. (7210, L. '09, p. 459.)

SEC. 43. *Muster Out of Companies.*

Whenever it shall appear to the Commander-in-Chief that any company in the National Guard has failed to comply with the requirements of the law, in the matter of uniform, equipment, discipline or otherwise, so that it is incapacitated to discharge the duties required of it, he may muster such company out of the service. (7211, L. '09, p. 459.)

SEC. 44. *Discharge of Enlisted Men.*

Enlisted men of the National Guard of Washington shall me discharged for the following reasons:

(1) Upon the completion of the period for which they shall have enlisted or re-enlisted.

(2) Upon promotion to a commissioned office.

(3) Upon permanent removal to a locality where there is no organization of the National Guard of Washington to which they may be transferred.

(4) Upon becoming physically or mentally unfit for the service.

(5) Upon conviction of a felony.

(6) Upon sentence of a court-martial.

(7) Upon disbandment of the organization to which they belong when there is no other organization at the same station to which they can be transferred.

(8) Upon the recommendation of their immediate commanders.

(9) For the good of the service.

(10) For desertion.

Each discharge shall be evidenced by a certificate in writing to be prescribed by the Commander-in-Chief, as to form, which shall be delivered to the individual discharged. (7212, L. '09, p. 459.)

SEC. 45. *Discharge for the Good of the Service.*

Any enlisted man may be discharged for the good of the service upon the recommendation of his immediate commander, but the officer recommending such discharge must give written notice thereof to the man to be discharged. Such notice shall state in full the reasons for such recommendations and the man so notified may appeal from such recommendation to the discharging authority: *Provided*, That the appellant shall have the right of hearing if, within five days after receipt of such notice, he notifies the discharging authority in writing of his desire to be heard. (7213, L. '09, p. 460.)

SEC. 46. *Uniforms, Arms and Equipments.*

The uniforms, arms and equipments of the National Guard of Washington shall be prescribed in regulations and shall conform as nearly as practicable with those of corresponding forces in the United States army, subject to the laws and regulations of the United States governing the organized militia. (7214, L. '09, p. 460.)

SEC. 47. *Unauthorized Use of Uniform.*

Every person, other than an officer or enlisted man of the National Guard of this state or any other state, or of the United States army, navy, marine corps or revenue service or forestry service, or inmate of any veterans' or soldiers' home, who at any time wears the uniform of the United States army or navy or National Guard, or any part of such uniform, or a uniform or part of a uniform similar thereto, within the bounds of the State of Washington, is guilty of a misdemeanor, and if found guilty of such offense shall be punishable by a fine of not less than one hundred nor more than two hundred and fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment: *Provided*, That nothing in this act shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theater while actually engaged in following said profession: *And, provided*, That nothing in this act shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room: *And provided further*, That whenever the National Guard, or any part thereof is in active service, or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where said National Guard is in service: *And provided further*, That this section shall not apply to cadets of any military school in the State of Washington. (7215, L. '09, p. 460.)

SEC. 48. *Officer's Uniforms—Allowances.*

Every commissioned officer of the National Guard of Washington shall within sixty days from the date of the order whereby he shall have been appointed, provide himself at his own expense, with the arms, uniforms and equipments prescribed by the Commander-in-Chief for his rank and assignment.

There shall be audited and paid annually on the first day of April in each year, to each properly armed, uniformed and equipped officer of the active list of the National Guard of Washington, a uniform allowance of seventy-five dollars ($75.00) for dismounted officers, and one hundred dollars ($100.00) for mounted officers. (7216, L. '09, p. 461.)

SEC. 49. *Property Accountability.*

Property accountability shall be defined by the Commander-in-Chief in regulations and shall correspond as nearly as practicable with the laws and regulations of the army of the United States relating thereto. (7217, L. '09, p. 462.)

SEC. 50. *Ownership of Military Property.*

All property issued to organizations and members of the National Guard of Washington shall be and remain public property. (7218, L. '09, p. 462.)

SEC. 51. *Buying and Receiving State Property Prohibited.*

If any person shall purchase or receive in pawn or pledge any military property of the State of Washington or of the United States, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to imprisonment not exceeding one year, or fined not exceeding three hundred dollars or to both such fine and imprisonment. (7219, L. '09, p. 462.)

SEC. 52. *Uniforms, etc., Exempt.*

The military uniforms, arms, equipments and mounts of members of the National Guard of Washington shall be exempt from execution and from taxation. (7220, L. '09, p. 462.)

SEC. 53. *Allowances for Incidental Expenses.*

Each commanding officer shall be entitled to receive an allowance for the incidental expenses of his command payable quarterly in advance according to the following schedule: Companies, troops, batteries and like units not to exceed twenty-five ($25.00) dollars per month; bands not to exceed fifteen ($15.00) dollars per month; battalions and like units not to exceed ten ($10.00) dollars per month; regiments and like units not to exceed twenty-five ($25.00) dollars per month.

For the first quarter of each biennial period each officer entitled to a quarterly allowance under this section shall be entitled to receive in advance the maximum allowance in full, but with his claim therefor

he shall make remittance of the balance, if any, remaining unexpended from the last previous quarter, such remittance to be transmitted by the Adjutant General to the State Treasurer, and for each succeeding quarter of each biennial period, each such officer shall be entitled to receive such sum, not more than the maximum allowance above prescribed, as he shall have expended for authorized expenses of his command during the next preceding quarter. Each claim for quarterly allowance shall include an account current showing the items of expenditure and shall be accompanied by subvouchers for all items, each voucher stating definitely the nature and amount of the expenditure evidenced thereby. (L. 1913, p. 232.)

SEC. 54. *Military Auditors.*

The board of military auditors shall consist of the Adjutant General and two officers of the active list of the National Guard of Washington to be selected by the State Auditor and detailed by the Commander-in-Chief, which board shall audit and pass upon all claims against the military appropriation. The board shall meet at the call of the Adjutant General. (L. 1913, p. 232.)

SEC. 55. *Auditing of Military Bills.*

All bills, claims and demands against the military fund shall be certified to or verified in the manner prescribed by regulations promulgated by the Commander-in-Chief and shall be audited by the proper Board of Military Auditors, and, if allowed, shall be paid by the State Treasurer upon the warrant of the State Auditor from the military fund: *Provided, however*, That in all cases where the National Guard or any part thereof is called into service of the State in case of war, riot, insurrection, invasion, breach of the peace, or in aid of the civil authorities, warrants for allowed pay and expenses for such service shall be drawn upon the general fund of the State Treasury and paid out of any moneys in said fund not otherwise appropriated. All military warrants shall be the obligations of the State and shall bear interest at the legal rate from the date of their presentation for payment. (7223, L. '09, p. 463.)

SEC. 56. *Pay and Allowances.*

Commissioned officers while on duty requiring pay shall receive the same pay and allowance as commissioned officers of the United States of the same grade and term of service: *Provided*, That for travel only actual necessary expenses shall be allowed.

For the purpose of pay and allowance as an officer of the National Guard, service with the First Washington Volunteer Infantry, as an officer or enlisted man until muster out of that organization shall be considered equivalent to three years' service in the National Guard of Washington. For the purpose of pay and allowance of an officer in the National Guard, service as an enlisted man in the National Guard of Washington shall be considered equivalent to service as an officer:

Provided, That said service as an enlisted man and officer be continuous.

For all duty requiring pay, enlisted men of the land branches in the National Guard of Washington shall receive pay at rates equivalent to twice those allowed for corresponding grades in the regular service of the United States army: *Provided*, That the pay of cooks and bandsmen shall be three dollars ($3.00) per day. Enlisted men of the naval militia branch of the National Guard of Washington shall receive pay at rates equivalent to those allowed for corresponding grades in the regular service of the United States navy, plus an addition to each respective rate of pay sufficient to make the same equal the next higher of the following seven per diem rates of pay, viz.: three dollars ($3.00), two dollars and fifty cents ($2.50), two dollars ($2.00), one dollar and seventy-five cents ($1.75), one dollar and fifty cents ($1.50), one dollar and twenty-five cents ($1.25), and one dollar ($1.00).

For each re-enlistment, after serving a full term of three years, there shall be added ten per cent. For the purpose of pay and allowance, service for a full term of enlistment in the regular or volunteer army of the United States, or in the First Washington Volunteer Infantry until muster out of that organization, shall be equivalent to a full enlistment. Enlisted men proving such service shall be allowed ten per cent additional on their pay.

This schedule of pay shall apply only to the first thirty days of any tour of duty and after the thirtieth day of any such tour, officers and men shall receive the pay allowed officers and men in the regular service of the United States of corresponding organizations, grades and terms of service. (L. 1915, p. 155.)

Extra duty pay to men detailed as clerks and on similar duty may be allowed by the commanding officers of troops on duty, but in no case shall pay and extra pay exceed two dollars and fifty cents ($2.50) per day.

Upon completion of his enlistment, or upon discharge by proper authority, each enlisted man shall receive in addition to the pay above mentioned, the sum of fifty cents for each day of state paid service, not exceeding fifty days, less all proper deductions for fines or lost property: *Provided*, That claims for such additional pay shall not be valid unless filed with the adjutant general within twelve (12) months from the date of discharge.

In addition to the pay herein provided the commander-in-chief, or such other state official as may be designated by federal authority, is authorized to receive and disburse, in accordance with federal laws and regulations, any moneys which may be appropriated by the congress of the United States and allotted to the State of Washington for the payment of officers and enlisted men of the organized militia as reimbursement for expenses incurred in, and compensation for, the time devoted to military training during times of peace. (L. 1915, p. 155.)

SEC. 57. *Transportation and Subsistence.*

There shall be provided by the state transportation for all officers and transportation and subsistence for all enlisted men who shall be ordered out for encampment, field duty, or stated parades, or assembled for duty in case of riot, tumult, breach of the peace, war, insurrection, invasion or imminent danger thereof. Necessary transportation, quartermasters' stores and subsistence for troops when ordered on duty shall be contracted for by the proper officers and paid for as other military bills. There shall be allowed from the military fund for each day's service the sum of two ($2.00) dollars per man for each horse for every mounted officer, and mounted orderly, and all members of such other organizations of the National Guard of Washington as are required to be mounted. Horses not furnished by officers or men shall be rented by the state at a cost not exceeding two ($2.00) dollars per day for each horse. For mounted organizations the Adjutant General may in his discretion cause horses to be purchased and maintained from the appropriation for maintenance. (L. 1913, p. 234.)

SEC. 58. *Stated Parades.*

There shall be three stated parades annually, with pay, as follows: February 22d, May 30th and July 4th. (7226, L. '09, p. 466.)

SEC. 59. *Pensions.*

Every member of the National Guard who shall be wounded or disabled while on duty in the service of the state shall be taken care of and provided for at the expense of the state, and if permanently disabled shall receive the like pensions or reward that persons under similar circumstances in the military service of the United States receive from the United States: *Provided*, That no pension shall be granted for any disability received while in the service of the United States, or while proceeding to or returning from such service. Before the name of any person is placed upon the pension roll under this section proof shall be made, under such regulations as the Commander-in-Chief may from time to time prescribe, that the applicant is entitled to such pension. (7227, L. '09, p. 466.)

SEC. 60. *Drills.*

At each station each company and similar unit of the National Guard shall meet at least twice in each month for drill and instruction and the commanding officer of any organization may require the officers and enlisted men of his organization to meet for drill and instruction at such times and places as he may appoint: *Provided*, That no pay shall be allowed for such duty. (L. 1913, p. 234.)

SEC. 61. *Authority of Commanding Officer.*

The commanding officer at any drill, parade, encampment or other duty may cause those under his command to perform any military duty he shall require, and may place in arrest for the time of such drill, parade, encampment or other duty any officer or enlisted man who shall

disobey the orders of his superior officer, or in any way interrupt the exercises, and any other person or persons who shall trespass on the camp grounds, parade grounds, rifle range or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those on duty, or who shall disturb or prevent the passage of troops going to or returning from any regularly ordered tour of duty; and he shall prohibit and prevent the sale or use of all spirituous liquors, wines, ale or beer, or holding of huckster or auction sales, and all gambling, and remove disorderly persons beyond the limits of such parade or encampment, or beyond a distance of two miles therefrom, and he shall abate as common nuisances all disorderly places, and all such sales within such limits. Any person violating any of the provisions of this section, or any order issued in pursuance thereof, shall be guilty of a misdemeanor, and may be delivered at or before the termination of such duty to any peace officer, and shall be brought before the nearest court of competent jurisdiction for trial, and upon conviction shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or shall suffer both such fine and imprisonment.

No municipal corporation, or other authority, shall issue, grant or renew a license to any person, firm or corporation for the sale of intoxicating or spirituous liquors or beverages within a distance of three hundred feet from any armory or military reservation owned by the State of Washington or the United States and used for military purposes, or within a distance of one mile from the American Lake military reservation, and any license so attempted to be granted, issued or renewed shall be void. (7229 L. '09, p. 466.)

SEC. 62. *Camp and Field Duty.*

The Commander-in-Chief shall cause the National Guard to perform for at least five consecutive days in each year camp duty, field maneuvers or such other duty as in his judgment will best promote the discipline and efficiency of the force. Inspections may be ordered by the Commander-in-Chief at any time. (7230, L. '09, p. 467.)

SEC. 63. *State Camp Grounds.*

All encampments shall be held at such places and at such times as may be ordered by the Commander-in-Chief. Camp grounds shall be selected by a board of officers to be appointed by the Commander-in-Chief and their selection shall be subject to his approval. Such grounds, if private property, shall be rented and paid for by the state. The state auditor is hereby authorized and empowered to draw his warrant upon the state treasurer, against the military fund, upon the certificates of the proper Board of Military Auditors, for such sums as shall be required in renting and in laying out and preparing grounds designated for such purposes, and in furnishing quarters for troops ordered into camp and for all necessary disbursements. (7231, L. '09, p. 468.)

SEC. 64. *Warning for Duty.*

Orders for duty may be oral or written. Officers and enlisted men may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his last known place of abode or business, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such man by mail, directed to him at his last known place of abode or business. Orders may be transmitted by telegraph or telephone. Such warning may be given by any officer or enlisted man. The officer or enlisted man giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath and shall be *prima facie* evidence, on the trial of any person returned as a delinquent, of the facts therein stated. (7232, L. '09, p. 468.)

SEC. 65. *Exemption from Arrest While on Duty.*

No person belonging to the military forces of this state shall be arrested under any civil process while going to, remaining at, or returning from any place at which he may be required to attend military duty. Any members of the National Guard parading, or performing any duty according to the law shall have the right-of-way in any street or highway through which they may pass and while on field duty shall have the right to enter upon, cross or occupy any unenclosed lands, or any enclosed lands where no damage will be caused thereby; any persons belonging to the military forces of the state while going to or returning from any parades, encampments, drill or meeting which he may be required by law to attend shall, together with his conveyance and the military property of the state, be allowed to pass free through all toll gates and over all toll bridges and ferries: *Provided*, That the carriage of the United States mail and the legitimate functions of the police and the progress and operations of fire departments, shall not be interfered with thereby. (7233, L. '09, p. 468.)

SEC. 66. *Interference With Employment of Guardsmen.*

A person, who either by himself, or with another, wilfully deprives a member of the National Guard of his employment or prevents, by himself or another such member being employed, or obstructs or annoys said member of said National Guard or his employer in his trade, business or employment, because said member of said National Guard is such member or dissuades any person from enlisting in said National Guard by threat or injury to him in his employment, trade or business, in case he shall so enlist, shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not exceeding $100.00, or imprisoned in the county jail not more than thirty days or shall suffer both fine and imprisonment. (7234, L. '09, p. 469.)

SEC. 67. *Rights of National Guardsmen.*

No club, society, association, corporation, or organization shall by any constitution, rule, by-law, resolution, vote or regulation, or otherwise, discriminate against any member of the National Guard of Washington because of his membership in said National Guard, in respect to the eligibility of such National Guardsman to membership in such club, society, association, corporation or organization, or in respect to his rights to retain and exercise the rights of membership therein. Any person or persons, club, society, association, corporation or organization violating or aiding, abetting or assisting in the violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding $100.00 or imprisoned in the county jail for a period not exceeding thirty days, or shall suffer both such fine and imprisonment. (7235, L. '09, p. 469.)

SEC. 68. *Discharge From Employment.*

No member of the National Guard shall be discharged by his employer by reason of the performance of any military duties upon which he may be ordered. When any member of the National Guard is ordered upon duty which takes him from his employment he may apply upon the termination of such duty to be restored to his position and employment, and if the tour of duty shall have continued for a period not longer than [three] months, any employer or the officer or other manager of any firm or corporation having authority to re-employ such National Guardsman and failing so to do shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding $300, or imprisoned in the county jail for a period not exceeding ninety days, or shall suffer both such fine and imprisonment. (7236, L. '09, p. 470.)

SEC. 69. *National Guard Association.*

The commissioned officers of the National Guard of Washington may associate themselves together in an organization to promote discipline and efficiency in the National Guard, under such rules and regulations as they may adopt, subject to the military regulations of this state. (7237, L. '09, p. 470.)

SEC. 70. *Incorporation.*

The officers, or the officers and enlisted men of any regiment, battalion or company of the National Guard of Washington are hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, acquiring and disposing of such property, real and personal, as such military organizations may possess or acquire. Such incorporation shall not engage in business and shall not be required to pay any filing or license fees to the state.

The dissolution or disbandment of any such company or companies as a military organization shall not operate to terminate the existence of the corporation, but the existence of the same shall continue for the

period limited in its articles of incorporation for the benefit of such corporation.

Upon the dissolution or disbandment of any regiment, battalion or company which shall not have incorporated, and which shall at the time of such dissolution or disbandment possess any regimental, battalion or company funds or property, the title to such regimental, battalion or company funds or property shall immediately vest in the State of Washington, and the Adjutant General shall take possession thereof and dispose of the same to the best interests of the National Guard. Enlistment in the National Guard shall constitute assent to the provisions of this section. (L. 1915, p. 47.)

SEC. 71. *Military Tribunals.*

The military tribunals of the State of Washington shall be of two kinds, viz.:

1. Courts-martial (including summary courts and delinquency courts), for the trial of offenders against military law, and

2. Courts of inquiry for examining transactions of, or accusations or imputations against officers or enlisted men of the National Guard of Washington.

Courts-martial shall be composed of commissioned officers only. All officers of the National Guard of Washington, including those on the retired list, shall be eligible for detail for the trial of offenders belonging to the National Guard of Washington; but no officer will be detailed for the trial of an officer superior to himself in rank when it can be avoided. In the military service of the State of Washington, the following named courts-martial are authorized:

1st. The general court-martial.

2nd. The summary court-martial.

3rd. The delinquency court for enlisted men. (7239, L. '09, p. 471.)

SEC. 72. *Composition, Constitution and Jurisdiction of Military Tribunals.*

Except as in this act otherwise provided, and as far as applicable, the composition, constitution and jurisdiction of courts-martial, the form and manner in which the proceedings of military courts and the proceedings in revision thereon shall be conducted and recorded, and the forms of oaths and affirmations used in the administration of military law by such courts, shall be governed by the law and procedure of courts-martial in the United States Army.

General courts-martial may consist of any number of officers from five (5) to nine (9) inclusive, but they shall not consist of less than nine, when that number can be conveniently assembled. The decision of the appointing authority as to the number that can be conveniently assembled shall be conclusive. When from any cause, a general court-martial is reduced below the minimum of five, the remaining members will direct the Judge Advocate to report the fact to the convening authority and await further orders. In such case, if the trial has not

been entered upon, new members may be added; but if any testimony has been taken, the court should preferably be dissolved and a new court ordered.

The jurisdiction of courts-martial as herein provided is limited to the purpose of the maintenance of military discipline, and as to persons, such courts have jurisdiction subject to the limitations hereinafter imposed at all times and in all places over officers and enlisted men of the National Guard of Washington for all military offenses committed by them, whether within or beyond the territorial limits of the State of Washington, and as to offenses, the jurisdiction embraces the offenses specifically defined in this act.

No officer shall be tried for a military offense committed by him in violation of any provision of this act or rule or regulation promulgated by authority thereof, except by a general court-martial.

No enlisted man shall be tried by a summary or delinquency court for an offense the punishment for which as prescribed herein may be discharge from the service.

A court of inquiry shall consist of one or more officers, not exceeding three, and a recorder to reduce the proceedings and evidence to writing. (7240, L. '09, p. 471.)

SEC. 73. *Rules and Articles Governing the National Guard of Washington.*

The word officer as used in this act shall be understood to designate commissioned officers. The words enlisted men as used in this act shall be understood to include non-commissioned officers, musicians, artificers, privates and other enlisted men, and the convictions mentioned herein shall be understood to be convictions by courts-martial.

The National Guard of Washington shall be governed by the following rules and articles:

Art. 1. These rules and articles shall be read to every enlisted man at the time of, or within six days after his enlistment, and he shall thereupon take an oath or affirmation in the following form:

"I., A. B., do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America, and the State of Washington; that I will serve the state honestly and faithfully against all its enemies whomsoever; and that I will obey the orders of the President of the United States and the Governor of the State of Washington, and the orders of the officers appointed over me, according to the rules and articles governing the National Guard of Washington."

This oath may be taken before any commissioned officer of the National Guard of Washington.

Art. 2. Every officer who knowingly enlists or musters into the military service any minor over the age of eighteen years without the written consent of his parents or guardians, or any minor under the age of eighteen years, or any insane or intoxicated persons, or any deserter from the military or naval service of the United States or of

the State of Washington, or any person who has been convicted of any infamous offense, shall upon conviction, be dismissed from the service, or suffer such other punishment as a court-martial may direct.

Art. 3. Any officer who knowingly musters as an enlisted man a person who is not an enlisted man shall be deemed guilty of knowingly making a false muster, and punished accordingly.

Art. 4. Any officer who takes money, or other thing, by way of gratification, on mustering any regiment, troop, battery or company, or on signing muster rolls, shall be dismissed from the service.

Art. 5. Every officer who knowingly makes a false return to any of his superior officers, authorized to call for such returns, of the state of the regiment, troop, or company, or garrison under his command; or of the arms, ammunition, clothing or other stores thereunto belonging, shall, on conviction thereof before a court-martial, be dismissed.

Art. 6. Every officer commanding a troop, battery, or company, is charged with the arms, accoutrements, ammunitions, clothing, or other military stores belonging to his command, and is accountable in case of their being lost, spoiled, or damaged otherwise than by unavoidable accident, or on actual service.

Art. 7. Every officer who signs a false certificate, relating to the absence or pay of an officer or enlisted man shall be dismissed from the service.

Art. 8. Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall, upon proof thereof by two witnesses, before a court-martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment in the service of the State of Washington.

Art. 9. Any officer, who wilfully or through neglect, suffers to be lost, spoiled, or damaged, any military stores belonging to the United States or the State of Washington, shall make good the loss or damage, and be dismissed from the service.

Art. 10. Any enlisted man who sells, or wilfully or through neglect wastes the ammunition delivered out to him shall be punished as a court-martial may direct.

Art. 11. Any enlisted man who sells, or through neglect loses or spoils his horse, arms, clothing, or accoutrements, shall be punished as a court-martial may adjudge, subject to such limitations as may be prescribed by the Commander-in-Chief.

Art. 12. Any officer or enlisted man who behaves himself with disrespect toward his commanding officer shall be punished as a court-martial may direct.

Art. 13. Any officer or enlisted man who, on any pretense whatsoever, strikes his superior officer, or draws or lifts up any weapon, or offers any violence against him, being in the execution of his

office, or disobeys any lawful command of his superior officer, shall suffer such punishment as a court-martial may direct.

Art. 14. Any officer or enlisted man who begins, excites, causes, or joins in any mutiny or sedition, in any troop, battery, company, party, post, detachment, or guard, shall suffer such punishment as a court-martial may direct.

Art. 15. Any officer or enlisted man who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or having knowledge of any intended mutiny or sedition does not, without delay, give information thereof to his commanding officer, shall suffer such punishment as a court-martial may direct.

Art. 16. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, whether among persons belonging to his own or another corps, regiment, troop, battery, or company, and to order officers into arrest, and non-commissioned officers and enlisted men into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or non-commissioned officer, or draws a weapon upon him, shall be punished as a court-martial may direct.

Art. 17. Any officer who thinks himself wronged by the commanding officer of his regiment, separate battalion, or separate company, and, upon due application to such commander, is refused redress, may complain to the Commander-in-Chief. The Commander-in-Chief shall examine into said complaint and take proper measures for redressing the wrong complained of.

Art. 18. Any enlisted man who thinks himself wronged by any officer may complain to the commanding officer of his regiment, separate battalion, or separate company, who shall examine into such complaint and take proper measures for redressing the wrong complained of. Either party may appeal from such action to a general court-martial; but if, upon such second hearing, the appeal appears to be groundless and vexatious, the party appealing shall be punished at the discretion of said general court-martial.

Art. 19. Any enlisted man who absents himself from his troop, battery, company, or detachment, without leave from his commanding officer, shall be punished as a court-martial may direct.

Art. 20. Any officer or enlisted man who fails, except when prevented by sickness or other necessity, to repair, at the fixed time, to the place of parade, exercise or other rendezvous appointed by his commanding officer, or goes from the same, without leave from his commanding officer, before he is dismissed or relieved, shall be punished as a court-martial may direct.

Art. 21. No enlisted man belonging to any regiment, troop, battery, or company shall hire another to do his duty for him, or be excused from duty, except in cases of sickness, disability, or leave of absence. Every enlisted man found guilty of hiring his duty, and

the person so hired to do another's duty, shall be punished as a court-martial may direct.

Art. 22. Every non-commissioned officer who connives at such hiring of duty shall be reduced. Every officer who knows and allows such practices shall be punished as a court-martial may direct.

Art. 23. Any officer who is found drunk on his guard, party, or other duty, shall be dismissed from the service. Any enlisted man who so offends shall suffer such punishment as a court-martial may direct.

Art. 24. Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer such punishment as a court-martial may direct.

Art. 25. Any officer or enlisted man who quits his guard, platoon, or division, without leave from his superior officer, except in a case of urgent necessity, shall be punished as a court-martial may direct.

Art. 26. Any officer, who by any means whatsoever, occasions false alarms in camp, garrison, or quarters, shall suffer such punishment as a court-martial may direct.

Art. 27. Any officer or enlisted man who misbehaves himself before the enemy, runs away, or shamefully abandons any fort, post, or guard which he is commanded to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, shall suffer such punishment as a court-martial may direct.

Art. 28. Every enlisted man who deserts the service of the State of Washington, shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such enlisted man shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

Art. 29. Any officer who, having tendered his resignation, quits his post, or proper duties, without leave and with intent to remain permanently absent therefrom, prior to due notice of acceptance of the same, shall be deemed and punished as a deserter.

Art. 30. Any officer or enlisted man who advises or persuades any other officer or enlisted man to desert the service of the State of Washington, shall suffer such punishment as a court-martial may direct.

Art. 31. All officers and enlisted men are to behave themselves orderly in quarters and on the march; and whoever commits any waste or spoil, either in walks or trees, parks, warrens, fish ponds, houses, gardens, grain field, enclosures, or meadows, or maliciously destroys any property whatsoever belonging to inhabitants of the United States or of the State of Washington, shall, besides such penalties as he may be liable to by law, be punished as a court-martial may direct.

Art. 32. (1) Any person in the military service of the State of Washington, who makes or causes to be made any claim against the

United States or the State of Washington, or any officer thereof, knowing such claim to be false or fraudulent; or

(2) Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States or the State of Washington, or any officer thereof, knowing such claim to be false or fraudulent; or

(3) Who enters into any agreement or conspiracy to defraud the United States or the State of Washington, by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

(4) Who, for the purpose of obtaining or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of Washington, or against any officer thereof, makes or uses, or procures or advises the making or use of, any writing or other paper, knowing the same to contain any false or fraudulent statement; or

(5) Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of Washington, or any officer thereof, makes, or procures or advises the making of, any oath to any fact or to any writing or other paper, knowing such oath to be false; or

(6) Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of Washington, or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of, any signature upon any writing or other paper, or uses, or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or

(7) Who, having charge, possession, custody, or control of any money or other property of the United States or of the State of Washington, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

(8) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State of Washington, furnished or intended for the military service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained, and with intent to defraud the United States or the State of Washington; or

(9) Who steals, embezzles, knowingly and wilfully misappropriates, applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, ammunition, equipments, clothing, subsistence, stores, money, or other property of the United States or of the State of Washington, furnished or intended for the military service thereof; or

(10) Who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any enlisted man, officer, or other person who is a part of or employed in said forces or service, any ordnance, arms, equipments, ammunition, clothing, subsistence, stores, or other property of the United States or of the State of Washington, such enlisted man, officer, or other person not having lawful right to sell or pledge the same, shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial may adjudge or by any or all of said penalties.

And if any person, being guilty of any of the offenses aforesaid, while in the military service of the State of Washington, receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial, in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

Art. 33. Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

Art. 34. All crimes not capital and all disorders and neglects, which officers and enlisted men may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles are to be taken cognizance of by a general, summary or delinquency court-martial, as provided herein, according to the nature and degree of the offense, and punished at the discretion of such court.

Art. 35. When an officer is put in arrest for the purpose of trial, the officer by whose order he is arrested shall see that a copy of the charge on which he is to be tried is served upon him within ten days after his arrest, and that he is brought to trial within twenty days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said twenty days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease. But officers released from arrest, under the provision of this article, may be tried, whenever the exigencies of the service shall permit, within twelve months after such release from arrest.

Art. 36. The Commander-in-Chief shall be competent to appoint a Judge Advocate for a general court-martial.

Art. 37. When the requisite number of officers to form a general court-martial is not present at any station or detachment the Commander-in-Chief, shall in cases which require the cognizance of such court, thereupon order a court to be assembled at the nearest place where such trial can be conveniently held, and shall order the party accused, with necessary witnesses, to be transported to the place where the said court shall be assembled.

Art. 38. Officers shall be tried only by general courts-martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

Art. 39. The Judge Advocate shall administer to each member of a general court-martial, before they proceed upon any trial, the following oath:

"You, A. B., do swear that you will well and truly try and determine, according to evidence, the matter now before you, between the State of Washington and the prisoner to be tried, and that you will duly administer justice without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the National Guard of Washington, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases; and you do further swear that you will not divulge the sentence of the court until it shall be published by the proper authority, except to the Judge Advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice, in due course of law. So help you God."

Art. 40. When the oath has been administered to the members of a general court-martial, the president of the court shall administer to the Judge Advocate, or person officiating as such an oath in the following form:

"You, A. B., do swear that you will not disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof, as a witness, by a court of justice, in due course of law; nor divulge the sentence of the court to any but the proper authority, until it shall be duly disclosed by the same. So help you God."

Art. 41. A court-martial may punish, at discretion, any person who uses any menacing words, signs, or gestures, in its presence, or who disturbs its proceedings by any riot or disorder.

Art. 42. All members of a court-martial are to behave with decency and calmness.

Art. 43. Members of a general court-martial may be challenged by a prisoner, but only for cause stated to the court. The court shall determine the relevancy and validity thereof and shall not receive a challenge to more than one member at a time.

Art. 44. When a prisoner, arraigned before a general court-martial, from obstinacy and deliberate design, stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had pleaded not guilty.

Art. 45. The Judge Advocate shall prosecute in the name of the State of Washington, but when the prisoner has made his plea, he shall so far consider himself counsel for the prisoner as to object to

any leading question to any witness, and to any question to the prisoner the answer which might tend to incriminate himself.

Art. 46. The depositions of witnesses residing beyond the limits of the State of Washington, if taken on reasonable notice to the opposite party and duly authenticated, may be read in evidence before such court.

Art. 47. All persons who give evidence before a court-martial shall be examined on oath, or affirmation, in the following form: "You swear (or affirm) that the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

Art. 48. A court-martial shall, for reasonable cause, grant a continuance to either party, for such time, and as often as may appear to be just.

Art. 49. Members of a court-martial, in giving their votes, shall begin with the youngest in commission.

Art. 50. No officer shall be dismissed, or discharged from the service except by order of the Commander-in-Chief, or by sentence of a general court-martial.

Art. 51. When a court-martial suspends an officer from command it may also suspend his pay and emoluments for the same time, according to the nature of his offense.

Art. 52. No person shall be tried a second time for the same offense.

Art. 53. No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than two years before the issuing of the order for such trial, unless by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

Art. 54. No sentence of a general court-martial shall be carried into execution until the same shall have been approved by the Commander-in-Chief.

Art. 55. In time of peace no sentence of a court-martial, directing the dismissal of an officer, shall be carried into execution, until it shall have been confirmed by the Commander-in-Chief.

Art. 56. Every Judge Advocate, or person acting as such, at any general court-martial, shall, with as much expedition as the opportunity of time and distance of place may admit, forward the original proceedings and sentence of such court to the Adjutant General of the National Guard of Washington.

Art. 57. Every party tried by a general court-martial shall, upon demand thereof made by himself or by any person in his behalf, be entitled to a copy of the proceedings and sentence of such court.

Art. 58. A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against, any officer or enlisted man may be ordered by the Commander-in-Chief.

Art. 59. The recorder of a court of inquiry shall administer to the members the following oath:

"You shall well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God."

After which the preisdent of the court shall administer to the recorder the following oath:

"You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

Art. 60. A court of inquiry, and the recorder thereof, shall have the same power to summon and examine witnesses as is given to general courts-martial and the Judge Advocates thereof. Such witnesses shall take the same oath which is taken by witnesses before general courts-martial, and the party accused shall be permitted to examine and cross-examine them, so as fully to investigate the circumstances in question.

Art. 61. A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

Art. 62. The proceedings of a court of inquiry must be authenticated by the signatures of the recorder and the president thereof and delivered to the Adjutant General.

Art. 63. The proceedings of a court of inquiry may be admitted as evidence by a court-martial, in cases not extending to the dismissal of an officer:

Provided, That the circumstances are such that oral testimony can not be obtained.

Art. 64. If, upon marches, guards, or in quarters, different organizations of the National Guard of Washington, happen to join or do duty together, the officer highest in rank of the line by commission, there on duty or in quarters, shall command the whole, and give orders for what is needful in the service, unless otherwise specially directed by the Commander-in-Chief, according to the nature of the case.

Art. 65. In case of death of any enlisted man, the commanding officer of his troop, battery, or company shall immediately secure all his effects then in camp or quarters, and shall, in the presence of two other officers, make an inventory thereof, which he shall transmit to the office of the Adjutant General.

Art. 66. The foregoing articles shall be read and published once in every six months, to every regiment, troop, or company in the service of the State of Washington, and shall be duly observed and obeyed by all the officers and enlisted men in said service.

Art. 67. Whenever, by any of the Rules and Articles provided by this act for the government of the National Guard of Washington, the punishment on conviction of any military offense is left to the discretion of the court-martial, the punishment therefor shall not, in time

of peace, be in excess of a limit which the Commander-in-Chief may prescribe.

Art. 68. Dismissal of an officer from the service as the result of a conviction by a court-martial shall incapacitate him from holding any military commission in the National Guard of Washington, and he shall thereby be disqualified to hold any office or employment in the service of the State of Washington.

Art. 69. Upon conviction by a general court-martial for any of the offenses in this act prescribed, an enlisted man shall become ineligible for one year thereafter to take an examination for commission in the National Guard of Washington.

Art. 70. Dishonorable discharge of an enlisted man shall operate to disfranchise him, disqualify him from holding any position in the National Guard and from holding any public office in this state. (7241-7311, L. '09, pp. 473-485.)

SEC. 74. *Summary Courts.*

The summary courts established by this act shall have jurisdiction over offenses committed by enlisted men when on active duty. The commanding officer of each garrison, fort, or other place, regiment or corps, detached battalion, or company, or other detachment, in the National Guard of Washington shall have power to appoint for such place or command, or in his discretion for each battalion thereof, a summary court to consist of one officer to be designated by him, before whom enlisted men may be tried for offenses committed while on active duty; such enlisted men must be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not be in excess of a limit that the Commander-in-Chief may prescribe, and in the case of a non-commissioned officer, reduction to the ranks in addition thereto; there shall be a summary court record kept at the headquarters of the proper command, in which shall be entered a record of all cases heard and determined and the action had thereon; and no sentence adjudged by said summary court shall be executed until it shall have been approved by the officer appointing the court, or by the officer commanding for the time being: *Provided*, That when but one commissioned officer is present with a command he shall hear and finally determine such cases.

The commanding officers authorized to approve the sentences of summary courts and superior authority shall have power to remit or mitigate the same. (7312, L. '09, p. 485.)

SEC. 75. *Delinquency Courts.*

Delinquency courts established by this act shall have jurisdiction over offenses, not otherwise provided for herein, committed by enlisted men of the National Guard.

A delinquency court shall consist of one commissioned officer. The commanding officer of each regiment or separate battalion or separate company shall appoint such delinquency courts as may be necessary: *Provided*, That when different branches of the service are located at one station, the Commander-in-Chief may appoint a delinquency court for that station, which court shall have exclusive jurisdiction over delinquency court cases for the organizations at such station. Any officer appointed as such delinquency court may be relieved from such duty at the pleasure of the appointing authority. Proceedings pending before the court shall not abate or be suspended by reason of such relief and an officer appointed as such court, shall have full power and authority to do and perform all acts necessary to complete any proceedings pending before the court and to carry into effect any judgment, mandate, order or process made or issued by such court. The court shall be held at such times and in such places as the court may direct. The court may appoint and at any time remove a clerk thereof. Clerks so appointed shall receive such compensation as may be fixed by the Commander-in-Chief in orders. The court shall keep a docket showing the cases tried and all proceedings therein, but the evidence taken need not be recorded. (7313, L. '09, p. 486.)

SEC. 76. *Marshal of Delinquency Court.*

The delinquency court officer may in his discretion appoint by warrant under his official signature, and at any time remove, one or more marshals, each of whom shall before entering upon his duties, execute a bond to the state in the penal sum of $500.00 with sufficient sureties, to be approved by the officer appointing him, for the faithful performance of his duties and the prompt payment of all monies collected by him. Each marshal shall perform the usual duties of such office, and shall execute any process, mandate, or order issued by such court, and perform all acts and duties by this act imposed on or authorized to be performed by any sheriff, marshal or constable. A bond given as herein provided may be prosecuted for breach of the conditions thereof, in the name of the State of Washington, and all monies recovered shall be paid to the military fund of the state. (7314, L. '09, p. 487.)

SEC. 77. *Oath.*

Before entering upon his duties, the delinquency court officer shall take an oath of office to the effect that he will well and truly try and determine, according to the evidence, all matters between the State of Washington and any person or persons who shall come before the court to which he is appointed. The oath need be administered but once. It may be taken before any officer authorized by law to take acknowl-

edgment of deeds, or before any commissioned officer of the National Guard of Washington. The oath shall be filed with the officer appointing such court. (7315, L. '09, p. 487.)

SEC. 78. *Punishments for Delinquency Court Offenses.*

A delinquency court may inflict the following punishment:

1. Reduction of non-commissioned officers to the ranks.
2. Reprimand.
3. Fines, and forfeitures, in whole or in part, of pay and allowances and costs as follows:

(a) For absence without proper excuse from, or tardiness without like excuse, in attending any drill, parade, meeting for instruction or other duty ordered by competent authority not less than one dollar nor more than five dollars for each day or part thereof of such absence.

(b) For any other offense herein authorized to be tried by such court a fine not in excess of a limit that the Commander-in-Chief may prescribe and addition thereto a sum equal to the value of the military property lost or destroyed or injury inflicted thereon to be assessed by the court.

All monies collected as fines or assessments by military courts shall be turned in to the state treasury under such regulations as the Commander-in-Chief may direct and credited to the military fund except those collections for the loss of government property which shall be turned over to the Adjutant General with an itemized statement showing the losses for which such monies are collected and the Adjutant General shall immediately apply such funds to the purchase of the necessary equipment to replace that which was lost or destroyed. (7316, L. '09, p. 488.)

SEC. 79. *Delinquency Court Summons.*

The summons issued by the delinquency court shall be substantially as follows:

The State of Washington, to......, Greeting:

You are hereby summoned and required personally to be and appear before the Delinquency Court convened pursuant to the authority of (here describe order authorizing the court) for the trial of..... (here insert name of delinquent) at.....on the.....day of .....at.....o'clock at..M., then and there to make answer concerning the following offense(s) with which you are charged (describe offense(s) and in case of your failure so to do, sentence will be entered against you for said delinquenc(y)ies as provided by law.

Done at.....the....day of....., 19....

.....

(Here insert rank of officer.)

Delinquency Court.

(7317, L. '09, p. 488.)

SEC. 80. *Service of Summons.*

The delinquency court shall designate and direct a proper person or persons to summon any and all delinquents to appear before the court. Service of the summons shall be made by delivering to and leaving with the person named in the summons a coupy thereof or by leaving a copy at his usual place of abode with some person of suitable age and discretion then resident therein. (7318, L. '09, p. 488.)

SEC. 81. *Proof of Service.*

Proof of service of summons shall be made by affidavit of the person serving same showing the time, place and manner of service thereof. Such affidavit shall be filed with the original summons and may be made before any officer authorized to administer oaths or before any commissioned officer of the National Guard of Washington other than the officer constituting the court by which such summons is issued. (7319, L. '09, p. 489.)

SEC. 82. *Trial by Delinquency Court.*

If the delinquent be not present at the convening of the court for the trial of such delinquent, the court may issue an order to compel his attendance, to be served in the same manner and by the same officers as bench warrants in civil cases in courts of record, or by the marshal of the court, or, if the accused be not present, or, being present, refuses to plead, the court may proceed to trial, first having entered a plea of not guilty, or the case may be continued by the court to such time and place as may be proper. (7320, L. '09, p. 489.)

SEC. 83. *Findings and Sentence.*

Upon completion of the trial of any delinquent, the delinquency court shall make and enter its findings and sentence in the form and manner prescribed in regulations. (7321, L. '09, p. 489.)

SEC. 84. *Appeals.*

Any person sentenced by a delinquency court may appeal to the officer ordering the court, or his successor, by serving a written notice of appeal on the delinquency court officer within five (5) days after sentence. No such sentence shall be enforced until the time within which an appeal may be taken shall have expired and in case of an appeal, until the proceedings and sentence of the court shall have been passed upon by the reviewing authority. In event of no appeal within the time prescribed, the judgment and sentence of the delinquency court shall be final. The record in the case appealed shall consist of the pleadings, a certified copy of the docket entries and all other papers in the case, which shall be forthwith transmitted to the reviewing officer who shall determine the appeal. The reviewing officer may, on appeal, approve, disapprove, remit or mitigate a fine or penalty imposed, and in determining the appeal he shall possess the same power to take evidence and administer oaths as the court whose sentence is

appealed from possesses. The sentence of the court as approved, disapproved, remitted or mitigated by the reviewing authority shall be published in orders. (7322, L. 09, p. 489.)

SEC. 85. *Evidence in Military Courts.*

Every military court shall have the same power to compel by subpoena, by subpoena *duces tecum*, and by attachment the attendance of witnesses, both civilian and military, and the production of books, papers and documents, and to punish for contempt a witness duly subpoenaed for non-attendance or refusal to be sworn or to testify, or to produce books, papers and documents as is possessed by the superior courts of this state. Military courts shall also have power to take or cause to be taken the depositions of witnesses who cannot reasonably be produced at the trial to the same extent as the superior courts aforesaid. (7323, L. '09, p. 490.)

SEC. 86. *To Prevent the Failure of Military Justice.*

Every person not belonging to the National Guard of Washington who, being duly subpoenaed to appear as a witness before a general court-martial, wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in the superior court of the State of Washington; and it shall be the duty of the prosecuting attorney of any county, on the certification of the facts to him by the general court-martial, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than five hundred dollars or imprisonment not to exceed six months, or both, at the discretion of the court: *Provided*, That no witness shall be compelled to incriminate himself or to answer any questions which may tend to incriminate or degrade him. (7324, L. '09, p. 490.)

SEC. 87. *Process and Mandates of Military Courts.*

Military courts are empowered to issue all processes and mandates, including writs and warrants, necessary and proper to carry into full effect the powers vested in said courts. Such processes and mandates may be directed to the marshals of the court, the sheriff of any county, and the constables and marshals of any town or city, and shall be in such form as may, from time to time, be prescribed in regulations. It shall be the duty of all officers to whom such processes or mandates may be so directed to execute the same and make return of their acts thereunder according to the requirements of the same. The keepers and wardens of all city and county jails shall receive the bodies of persons committed by the process or mandate of a military court and confine them in the manner prescribed by and according to law. Any person may be committed to any jail for failure to pay any fine under

this act, and when so committed shall be credited upon such fine and assessed costs, with the sum of $2.00, for each day so confined. (7325, L. '09, p. 491.)

SEC. 88. *Contempt of Court.*

Any person who shall be guilty of disorderly, contemptuous or insolent behavior in, or who shall use any insulting, or contemptuous, or indecorous language or expression to or before any military court, or any member of such court, in open court, tending to interrupt its proceedings, or to impair the respect due to its authority, or who shall commit any breach of the peace, or make any noise or other disturbance, directly tending to interrupt its proceedings, may be committed by warrant under the hand of the president of the court, to the jail of the city or county in which said court shall sit, there to remain without bail in close confinement, for a definite time not exceeding three days. (7326, L. '09, p. 491.)

SEC. 89. *Fees and Mileage.*

Fees and mileage allowed for the service of process and for civilian witnesses shall be the same as in civil actions. All expenditures necessary to carry the provisions of this act into effect are hereby authorized to be incurred, and paid out of the appropriation for the maintenance of the National Guard. (7327, L. '09, p. 492.)

SEC. 90. *Military Rifle Ranges.*

Under the direction of the Commander-in-Chief the Adjutant General shall, at the expense and in the name of the state, buy or lease, establish, equip, maintain and control such rifle ranges, and issue such ammunition, transportation and supplies as may be necessary to provide each organization of the National Guard of Washington with adequate means and opportunity for thorough instruction in rifle practice. (7328, L. '09, p. 492.)

SEC. 91. *Prizes for Markmanship.*

The Adjutant General is authorized to expend from the appropriation for the maintenance of the National Guard the sum of $500.00 per annum for prizes for markmanship in military rifle and revolver firing under such regulations as may be prescribed by the Commander-in-Chief. (7329, L. '09, p. 492.)

SEC. 92. *Articles of War and Regulations of United States Army.*

Whenever any portion of the militia of the state shall be on duty under or pursuant to orders of the Commander-in-Chief, or whenever any part of the militia shall be ordered to assemble for duty in time of war, insurrection, invasion or imminent danger thereof, breach of the peace, tumult, riot, public danger or resistance to process, the Articles of War and Regulations for the government of the Army of the United States, so far as applicable and not in conflict with any rule or regulation herein prescribed, and with such modifications as the Com-

mander-in-Chief may prescribe, shall be considered in force and regarded as a part of this act until such forces shall be duly relieved from such duty. No punishment under this section, extending to the taking of life, shall in any case be inflicted except in time of actual war, invasion or insurrection declared to exist by proclamation of the President of the United States or by the Governor of this state, and then only after the approval of such sentence by the Commander-in-Chief. (7330, L. '09, p. 492.)

SEC. 93. *Rules and Regulations of National Guard.*

The Commander-in-Chief shall promulgate in general orders such rules and regulations and amendments thereto not inconsistent with this act as he may deem necessary. Such rules and regulations, when so promulgated, shall have the same force and effect as though herein enacted. The rules and regulations governing the National Guard of Washington, and in force at the time this act goes into effect, and not in conflict herewith, shall remain in full force and effect until annulled or modified by the Commander-in-Chief. (7331, L. '09, p. 493.)

SEC. 94. *Exemption from Jury Duty and Poll Tax.*

Every commissioned officer and every enlisted man of the National Guard of this state shall be exempt from all jury duty and from the payment of poll tax during the term of his service in the National Guard. Every person employing an enlisted man of the National Guard of Washington having not less than six months' continuous service therein, and having so continuously employed him for a period of not less than six months prior to the time of claiming such exemption shall be exempt from jury duty: *Provided*, That if such National Guardsman is employed by a firm or corporation, one member only of such firm or officer of such corporation shall be exempt from jury duty for each National Guardsman so employed: *And provided further*, That this exemption shall extend only to members of firms and to officers of corporations actively engaged in conducting the business of such corporation, and shall not extend to directors and stockholders in such corporation merely as such. (7332, L. '09, p. 493.)

SEC. 95. *Flags.*

No flag except that of the United States and that of the State of Washington shall be carried by the National Guard of Washington. (7333, L. '09, p. 493.)

SEC. 96. *Regulations Governing Armories, Rifle Ranges, Etc.*

The Commander-in-Chief shall promulgate in general orders such regulations for the use of armories, rifle ranges, and other real property owned or leased by the state for military purposes as may be proper: *Provided*, That no armory shall be used for any other than a strictly military purpose without the recommendation of the officer in charge thereof: *And provided further*, That all civilian rifle clubs

affiliated with the National Rifle Association of America shall be permitted the use of the rifle ranges and the armories owned by the state at least one night each week under such regulations as the Commander-in-Chief may direct: *And provided further*, That one room shall be set aside for the exclusive use of all veteran organizations subject to the direction of the officer in charge thereof: *And provided further*, That all revenue derived from rentals of these armories shall be turned in to the state treasurer under such regulations as the Commander-in-Chief may direct and credited to the military fund. (7334, L. '09, p. 494.)

SEC. 97. *Lease of Property by the National Guard.*

All armories and rifle ranges and all property, real or personal, used by the National Guard and not owned by the State of Washington or the United States, shall be leased or rented to the state upon such terms and conditions as shall be approved by the Commander-in-Chief. (7335, L. '09, p. 494.)

SEC. 98. *Annual Board of Survey.*

On or before the 1st day of December of each year and as often as may be necessary, the Commander-in-Chief shall order and convene a general board of survey, which board shall pass on all shortages of military property and on all property unfit for military purposes and perform such further duties as shall properly come before such board. (7336, L. '09, p. 494.)

SEC. 99. *Wrongful Taking of Government Property from Armory.*

Any enlisted man taking any government property from an armory without the written consent of his company commander shall be considered as appropriating government property to his own use and may be tried in any court of competent jurisdiction and on conviction thereof shall suffer a fine in any sum, not exceeding $100.00, together with the cost of such government property, or imprisonment in the county jail for a period not exceeding sixty (60) days, or shall suffer both such fine and imprisonment. (7337, L. '09, p. 494.)

SEC. 100. *Naval Militia Authorized.*

There is hereby authorized, in addition to and as a part of the organized forces of the National Guard of the State of Washington, a Naval Militia, which shall consist of not more than five hundred officers and men. Said militia to bear the same relation to the United States navy as the land forces of the National Guard bear to the United States army, and the Naval Militia of the state shall be organized and governed by the rules, regulations, and articles for the government of the United States navy in the same manner and to the same extent as the land forces of the National Guard of the state are now organized and governed by the rules, regulations and Articles of War of the United States army. (L. '11, p. 491.)

SEC. 101. *Officers, Naval Militia.*

The line officers of the Naval Militia shall consist of a captain who shall be the commanding and ranking officer, not to exceed four lieutenant-commanders, one of whom may be detailed as executive officer, one as navigating officer, one as chief engineer; a lieutenant, a lieutenant junior grade, and an ensign for each division organized, and such other line officers as may be expedient or sufficient to make up a ship's company of the first class in conformity with the articles, laws, customs and regulations governing the United States navy. In addition to the line officers there may be commissioned a surgeon and a paymaster with rank of lieutenant-commander, a chaplain with rank of lieutenant, and such other staff officers as may be necessary or sufficient to complete a ship's company in conformity with the articles and regulations of the United States navy. (L. '11, p. 492.)

SEC. 102. *Annual Duty, Naval Militia.*

The Naval Militia, or such portion as the commanding officer may select, may be required to perform cruise duty annually on United States vessels or vessels loaned this state by the United States for at least five consecutive days, or such further time as the Commander-in-Chief may order. (L. '11, p. 492.)

SEC. 103. *Units of Organization, Naval Militia.*

For the purpose of business and military administration the Naval Militia shall be considered as a regiment; and a division of Naval Militia, consisting of not more than sixty nor less than forty enlisted men, shall be considered as a company of infantry. (L. '11, p. 492.)

SEC. 104. *Regulations Governing Commissions, Naval Militia.*

The law governing the election and appointment of officers in the National Guard, and the relative rank as recognized in the army and navy of the United States shall apply to the Naval Militia: *Provided, however,* That the examining board for officers of the Naval Militia shall be composed so far as practicable of officers of the United States navy detailed for that purpose by the Secretary of the Navy upon the request of the Commander-in-Chief: *Provided further,* That the first commission issued to any officer shall be for a probationary period of six months, at the expiration of which time the commission may be regularly issued at the discretion of the Commander-in-Chief: *And provided further,* That previous military or naval service shall not be required of a candidate for appointment as a lieutenant commanding a a division. (L. '11, p. 492.)

SEC. 105. *Tax Levy.*

For the purpose of raising revenue for the National Guard there is hereby levied, and the proper officers shall collect, a tax of not to exceed one-fifth of one mill, or so much thereof as may be necessary, upon all the property of the state subject to taxation, for the present fiscal year and for each fiscal year hereafter. (7338, L. '07, p. 226.)

SEC. 106. *Military Fund.*

The revenue raised under the provisions of this act shall be paid into the state treasury and be converted into a special military fund, from which special fund shall be paid the expenses authorized by this act, except as otherwise provided. (7339, L. '95, p. 242.)

SEC. 107. *Exemption of Asylum Superintendents.*

The superintendent shall not be required to attend any court as a witness in a civil suit, but parties desiring his testimony can take and use his deposition; nor shall he be required to attend as a witness in any criminal case, unless the judge of the court before which his testimony shall be desired shall, upon being satisfied of the materiality of his testimony, require his attendance; and he and all other persons employed at the hospital shall be exempt from serving on juries, and, in time of peace, from performing military duty; and the certificate of the superintendent shall be evidence of such employment. (5947, L. '90, p. 485.)

SEC. 108. *Exemption of Telegraph Employes.*

All operators, clerks, and persons in the employ of any telegraph company, whilst employed in the offices of said company, or along the route of its telegraph line, shall be exempt from militia duty and from serving on juries, and from any fine or penalty for the neglect thereof. (9320, L. '66, p. 74.)

SEC. 109. *Unauthorized Association Forbidden.*

It shall not be lawful for any body of men other than the National Guard or troops of the United States, to associate themselves together as a military company with arms, without the consent of the Governor; but members of social and benevolent associations are not prohibited from wearing swords. Every person who shall associate with others in violation of this section shall be guilty of a misdemeanor. (2546, L. '09, p. 980.)

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